

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

State of Illinois, Department of Transportation,
Petitioner,

v.

Illinois Central Railroad Company,
Respondent.

T02-0090

Petition for authorization to replace the grade separation structure carrying IL Rt. 17 (Court Street) over IC's tracks located in the City of Kankakee, Kankakee County, Illinois and for a waiver of the clearance requirements of 92 Ill. Adm. Code Section 1500.

ORDER ON RECONSIDERATION

By the Commission:

On September 9, 2002, the State of Illinois, Department of Transportation ("IDOT") filed the above-captioned petition with the Illinois Commerce Commission ("Commission"), therein naming as Respondent the Illinois Central Railroad Company ("the IC").

On November 7, 2002, the Commission entered an Order approving the petition for authorization to replace the grade separation structure.

On December 2, 2002, Respondent Illinois Central Railroad Company ("the IC") filed its Verified Petition To Reconsider And/Or Clarify Order stating as its reasons, the following: the fifth finding states that IDOT requests a waiver of clearance requirements. The second ordering paragraph grants permission for the reduced vertical clearance. However, the vertical clearances of the existing bridge are twenty-one feet six inches (21'6"). Vertical clearances will be increased to twenty-two feet nine inches (22'9"). This variation of vertical clearance does not present a safety problem in light of the fact that railroad personnel do not travel atop the railroad cars as they proceed in the subject area. The requirement of 92 Illinois Administrative Code ("I.A.C.")1500.160 is 21'6". Therefore, bulletins, lights, and signs as required by 92 I.A.C. 1500 *et seq.* should not be imposed and a waiver of vertical clearance requirements should be granted.

The third ordering paragraph should read as follows:

IT IS FURTHER ORDERED that the clearance of twenty-two feet nine inches (22'9") as shown on Exhibit A, attached to the Petition, and made a part hereof, be, and it is hereby, permitted.

The fourth and fifth ordering paragraphs should be removed from the Order of November 7, 2002.

IT IS THEREFORE ORDERED that the Order entered by the Commission on November 7, 2002 be, and the same is hereby, amended in accordance with the immediately preceding paragraphs.

IT IS FURTHER ORDERED that in all other respects, the Order entered on November 7, 2002, remains in full force and effect.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final order subject to the Administrative Review Law.

By Order of the Commission this 8th day of January 2003.

JUDGE	<i>BT</i>
SECTION CHIEF	
ORDERS SUPERVISOR	<i>[Signature]</i>

Kevin H. Wright

Chairman